



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

ON

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,245	09/25/2000	Danny H. Kuighadush	845-002	4286

7590 03/10/2003

Joseph Sofer  
SOFER & HAROUN, L.L.P.  
Suite 910  
317 Madison Avenue,  
New York, NY 10017

EXAMINER

MOY, JOSEPH MAN

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/669 245	J. KUIGIHAUDUSIT
	Examiner Joseph Moy	Art Unit 3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 2/15/03

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 15, 16, 20-29 is/are pending in the application.

4a) Of the above claim(s)       is/are withdrawn from consideration.

5) Claim(s) 15, 16, 20-29 is/are allowed.

6) Claim(s)       is/are rejected.

7) Claim(s)       is/are objected to.

8) Claim(s)       are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on       is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on       is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No.      .  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>     </u>.</p>	<p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>     </u></p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: <u>     </u></p>
---	--

Serial Number: 09/669245

The species of Figures 9A and 9B has been elected for examination without traverse as stated in the response dated 10/18/01. Claims 15,16,20-29 are now pending.

Claims 15,16,20,21,26-29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For example: in claim 15 line 6, "downwardly against said first side wall" and in claim 26, lines 6-7 "lower portion is disposed along said first side wall, parallel to both the edges of and the plane of said first sidewall". Such limitation is not described in the specification. Figures 9A and 9B merely show interrupted lines to indicate a straw is broadly located inside the container. The specific orientation of the lower portion of the straw as claimed is not shown.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15,16,20-29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wen or Cornell et al. All the references show all the structures of the device as recited by the claims. Wen and Cornell et al (figures 8-30) show the straw with pleats.

Any inquiry concerning this office action will be directed to examiner Joseph Moy, (703)

308-1145. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging faxing of responses in Office Actions directly into the group a (703)305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a USPTO deposit account. Please identify the examiner and the art unit at the top of your cover sheet.

If in receiving this Office Action it is apparent to applicant that certain documents are missing e.g. copies of references cited, form PTO-1449, form PTO-892., etc. requests for copies of such papers should be directed to Errica Bembry at (703)306-4005.

Date: 03/05/03

Joseph M. Mire  
Primary Examiner